

FILED

Sep 18 2020

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCOUNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JERRY MITCHELL,

Defendant.

Case No. [18-cr-00013-EMC-1](#) (VKD)**ORDER RE DETENTION PENDING
REVOCATION HEARING**

In accordance with the Bail Reform Act, 18 U.S.C. §§ 3142, 3143(a), and Federal Rule of Criminal Procedure 32.1, the United States moves for detention of defendant Jerry Mitchell, pending a hearing before the district judge regarding revocation of his supervised release. The Probation Office also recommends detention. The Court held a detention hearing by videoconference, with Mr. Mitchell's consent, on September 17, 2020. Dkt. No. 52. Mr. Mitchell was represented by counsel during the hearing.

Having considered the factors set forth in 18 U.S.C. § 3142(g), the matters in the petition, and the proffers of counsel for Mr. Mitchell and for the United States, the Court concludes that Mr. Mitchell has not met his burden to show by clear and convincing evidence that he is not a danger to others and the community and that he will not flee or fail to appear for court as required. Fed. R. Crim. P. 32.1(a)(6). According to the Probation Officer, Mr. Mitchell has not permitted probation visits and has not complied with other requirements of his supervision, including participating in mental health treatment. The Probation Officer assigned to Mr. Mitchell's case expressed concern that Mr. Mitchell currently poses a danger to others and to himself. The petition charging Mr. Mitchell with violations of his supervised release includes evidence that Mr.

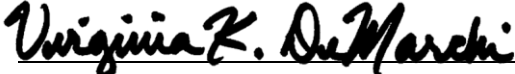
1 Mitchell violated the terms of a restraining order protecting his mother, and that he has threatened
2 the safety of the Probation Officer assigned to his case. During the detention hearing before this
3 Court, Mr. Mitchell behaved in a manner that was disruptive, aggressive, and erratic. The Court
4 inquired if there were measures short of detention that could ensure Mr. Mitchell's safety and the
5 safety of the community, but neither party had any suggestions to offer the Court. The Probation
6 Office has advised the Court that because Mr. Mitchell has refused to comply with his mental
7 health treatment requirements, it is not possible to rely on the available mental health resources to
8 assist Mr. Mitchell and mitigate his behavior.

9 The Court finds that Mr. Mitchell is a danger to others and the community and that he
10 poses a risk of non-appearance. Mr. Mitchell has not shown otherwise by clear and convincing
11 evidence. Accordingly, the Court orders Mr. Mitchell detained pending a revocation hearing to be
12 conducted pursuant to Federal Rule of Criminal Procedure 32.1(b)(2).

13 Mr. Mitchell is committed to the custody of the Attorney General or his designated
14 representative for confinement in a corrections facility separate, to the extent practicable, from
15 persons awaiting or serving sentences or being held in custody pending appeal. Mr. Mitchell shall
16 be afforded a reasonable opportunity for private consultation with defense counsel. On order of a
17 court of the United States or on the request of an attorney for the United States, the person in
18 charge of the corrections facility shall deliver Mr. Mitchell to the United States Marshal for the
19 purpose of an appearance in connection with a court proceeding.

20 **IT IS SO ORDERED.**

21 Dated: September 18, 2020

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24 VIRGINIA K. DEMARCHI
25 United States Magistrate Judge
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